

Message Text

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ACTION EB-08

INFO OCT-01 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 FRB-03 H-01 INR-10 INT-05 L-03
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STR-07 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01
DOE-15 OIC-02 AF-10 ARA-10 EA-10 EUR-12 NEA-11
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PASS STR ELECTRONICALLY

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: GATT SECRETARIAT REFORM

REF: (A) GENEVA 7743, (B) GENEVA 7955

1. AS INDICATED REF A, THE QUESTION OF MANAGEMENT OF THE GATT WILL BE ON THE AGENDA OF THE NEXT CG-18 MEETING JUNE 8-9. WE THEREFORE BELIEVE IT APPROPRIATE TO OFFER OUR COMMENTS ON THE DRAFT TPSC DOCUMENT 78/58 ENTITLED "GATT SECRETARIAT REFORM" SINCE SOME OF THE ITEMS COVERED IN THIS DOCUMENT MAY SURFACE IN THE CG-18 DISCUSSION.

2. WE AGREE THAT THE GATT SECRETARIAT WILL NEED TO BE STRENGTHENED FOR THE POST MTN PERIOD TO MEET REQUIREMENTS STEMMING FROM NEGOTIATED RESULTS OF MTN, PARTICULARLY MTN CODES AND UNDERSTANDINGS (WE ARE, OF COURSE, ASSUMING A SUCCESSFUL MTN). WE ALSO WOULD LIKE TO SEE SECRETARIAT PLAY AN EXPANDED ROLE IN DISPUTE MANAGEMENT, MONITORING

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TRADE ACTIONS, AND IN ANALYSES OF WORLD'S TRADING PROBLEMS. BELIEVE WE SHOULD NOW BEGIN PROCESS OF PLANNING FOR POST MTN PERIOD BECAUSE MANY OF POST MTN GATT ACTIVITIES, TO THE EXTENT THAT THEY DICTATE AN ADDITION TO THE SECRETARIAT STAFF, CAN BE ABSORBED IN THE BUDGET WITHOUT AN OVERALL INCREASE IN BUDGET BY SHIFTING EXPENDITURES FROM TEMPORARY MTN BUDGET (CURRENTLY 5 MILLION SF)

TO REGULAR BUDGET. WE SEE A STRENGTHENED SECRETARIAT AS
NEEDED TO SUPPORT FOLLOWING POST MTN GATT ACTIVITIES:

A. PROVIDING THE BASIS FOR CONTINUING NEGOTIATIONS.
THERE IS A CONSIDERABLE OPINION IN GENEVA THAT SINCE
HUGE MULTILATERAL NEGOTIATIONS OF THE TYPE OF THE KENNEDY
AND TOKYO ROUNDS ARE BECOMING EXCEEDINGLY COMPLEX AND
DIFFICULT TO MANAGE, THEY WILL BE UNLIKELY IN THE FUTURE.
THERE IS, THEREFORE, SOME SUPPORT FOR ESTABLISHING A
FRAMEWORK IN WHICH NEGOTIATIONS CAN BE HELD ON AN AD HOC
BASIS AS THE NEED ARISES. SUCH A PROCEDURE WOULD ALLOW
THE TRADE RULES AND CODES TO BE ADJUSTED AS NEEDED IN
ORDER TO STAY MORE CLOSELY ATTUNED TO THE BASIC ATTITUDES
OF GOVERNMENTS THAN IS POSSIBLE UNDER THE PRESENT SYSTEM
OF OCCASIONAL LARGE-SCALE NEGOTIATIONS. TO ACCOMPLISH
THIS WE DO NOT NEED ANY ORGANIZATIONAL CHANGES WITHIN
THE GATT, BUT WE WILL NEED AN INFORMAL CONSENSUS AMONG
THE MAJOR TRADING PARTNERS TO UNDERTAKE SUCH NEGOTIATIONS
IN THE GATT AS CIRCUMSTANCES INDICATE. WE BELIEVE THAT
CG-18 CAN BE USED AS ONE VEHICLE FOR SEEKING AGREEMENT
TO INITIATE SPECIFIC NEGOTIATIONS. AS WE NOTED IN REF B,
WE EXPECT THAT SOME OF THESE NEGOTIATIONS WILL TAKE PLACE
UNDER THE AUSPICES OF THE COMMITTEE ON TRADE AND DEVELOP-
MENT. NEGOTIATIONS CONCERNED WITH IMPROVING AND UPDATING
CODES COULD BE UNDERTAKEN IN THE VARIOUS COMMITTEES
ESTABLISHED TO OVERSEE THE CODES.
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B. TRADE POLICY MANAGEMENT -- WE BELIEVE THAT THE
CURRENT WIDESPREAD USE OF RESTRICTIVE TRADE PRACTICES
OUTSIDE THE GATT FRAMEWORK AND GOVERNMENTS' RELUCTANCE
TO USE THE GATT FOR THE SETTLEMENT OF DISPUTES REFLECTS,
IN PART, THE GENERAL WEAKNESS OF THE GATT IN THIS AREA
AND THE INABILITY TO ADAPT THE DISPUTE MANAGEMENT FRAME-
WORK WITHIN THE GATT TO ACCOMMODATE THE CHANGING NATURE
OF SUCH DISPUTES. ALTHOUGH, IN THE LAST ANALYSIS,
WHETHER OR NOT GOVERNMENTS USE GATT'S "GOOD OFFICES" TO
MANAGE SOME OF THE MORE IMPORTANT TRADE ISSUES OF THE
DAY DEPENDS UPON THE WILL OF SUCH GOVERNMENTS TO DO SO;
WE DO BELIEVE THAT A STRENGTHENED SECRETARIAT AND FLEXI-
BLE PROCEDURES FOR MANAGING DISPUTES BEFORE THEY REACH
THE FORMAL DISPUTE STAGE COULD INFLUENCE GOVERNMENTS TO
USE GATT'S "GOOD OFFICES" FOR SUCH MATTERS. WE THERE-
FORE SUGGEST BROADENING OF ITEM IN TPSC PAPER ON DISPUTE
RESOLUTION TO INCLUDE SECRETARIAT LEADERSHIP IN
(1) MANAGEMENT OF TRADE PROBLEMS (SURVEILLANCE, CANDID
DEBATE, POLICY COORDINATION EFFORTS) BEFORE THEY REACH
THE STAGE OF FORMAL DISPUTE SETTLEMENT, AND (2) EVOLUTION
OF NEW OR MORE DETAILED GATT RULES IN PARTICULAR AREAS

AS PROBLEMS ARISE. WE BELIEVE THIS SHOULD BE THE PRIMARY
FOCUS OF A STRENGTHENED SECRETARIAT. MONITORING AND
ANALYSIS FUNCTIONS WOULD BE SUPPORTIVE FUNCTIONS.

C. INCREASED ANALYSIS AND INDIVIDUAL COUNTRY
STUDIES -- IN THE PAST THE GATT HAS UNDERTAKEN A NUMBER
OF INDIVIDUAL COUNTRY STUDIES IN THE CONTEXT OF THE
COMMITTEE ON TRADE AND DEVELOPMENT. IT ALSO HAS THE
MANDATE TO DO SO UNDER THE BALANCE OF PAYMENTS COMMITTEE
BUT HAS INSTEAD RELIED UPON DOCUMENTATION FROM CONSULTING
COUNTRIES. WE AGREE WITH DRAFT TPSC DOCUMENT THAT AN
INCREASED ROLE IN THIS AREA COULD BE USEFUL. AS WE
POINTED OUT IN REF B, WE SEE COUNTRY STUDIES AS ONE WAY
OF PROMOTING THE GRADUATION CONCEPT. IT COULD ALSO HELP
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TO MAKE BOP CONSULTATIONS MORE PRODUCTIVE. WE SHOULD
ALSO SUPPORT EXPANDED WORK OF THE TYPE EXEMPLIFIED IN
THE TWO RECENT ANALYTICAL WORKS BY THE GATT SECRETARIAT
ON PROTECTIONISM AND ON SPECIFIC DUTIES. BOTH OF THESE

HAVE BEEN TIMELY AND HAVE OR WILL CONTRIBUTE TO THE DISCUSSION ON PROBLEMS IN THESE AREAS. FROM OUR TALKS WITH THE ANALYTICAL STAFF, WE NOTE THAT THERE ARE A NUMBER OF OTHER PROJECTS (I.E., RESTRICTIVE BUSINESS PRACTICES, THE CONFLICT BETWEEN ANTITRUST AND TRADE POLICY, ETC.) THAT THEY WOULD LIKE TO PURSUE IF GIVEN PERMISSION BY THE DIRECTOR GENERAL.

3. GATT ORGANIZATION.

(A) LEADERSHIP -- WE AGREE THAT WE NEED TO GIVE SERIOUS THOUGHT TO THE TYPE OF PERSON WE WANT TO REPLACE DIRECTOR GENERAL LONG, AND THAT THE GATT COULD FUNCTION MUCH MORE EFFECTIVELY WITH MORE VIGOROUS LEADERSHIP. WE WOULD ARGUE THAT WHOEVER IS CHOSEN SHOULD BE SOMEONE LIMITED OFFICIAL USE

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FAMILIAR, IF NOT AN ACTIVE PARTICIPANT, IN THE MAJOR TRADE ISSUES THAT FACE US TODAY IN ORDER THAT HE BE ABLE TO ASSUME IMMEDIATELY AN ACTIVE ROLE IN SHAPING THE POST MTN PERIOD. WE SHOULD NOT RULE OUT THE POSSIBILITY OF AN AMERICAN OR SOMEONE FROM ONE OF THE EC STATES AS DIRECTOR GENERAL SINCE, IF THE EC AND U.S. CAN AGREE ON A DG, THE POSSIBILITY OF A DEVELOPING COUNTRY OBTAINING POSITION BY DEFAULT WOULD BE DIFFICULT. WE DO NOT, HOWEVER, RULE OUT THE POSSIBILITY OF AN ADEQUATELY QUALIFIED DG FROM ONE OF THE DEVELOPING COUNTRIES. DEPUTY DIRECTOR GENERAL PATTERSON WILL ALSO DEPART AT THE END OF THE TOKYO ROUND. AS WASHINGTON IS AWARE, PATTERSON'S SLOT IS A TEMPORARY POSITION ESTABLISHED FOR THE TOKYO ROUND. THE PERMANENT STRUCTURE OF THE GATT STILL CALLS FOR A DIRECTOR GENERAL AND ONE DEPUTY. WE BELIEVE, HOWEVER, THAT THERE IS MERIT IN MAINTAINING TWO DEPUTIES SINCE, IF THE NEW DG IS TO BE MORE ACTIVELY ENGAGED IN MAJOR TRADE ISSUES, MUCH OF THE DAY-TO-DAY MANAGEMENT OF THE SECRETARIAT MAY DEVOLVE UPON THE SHOULDERS OF ONE OF THE DEPUTIES. ALSO, SHOULD THE SECRETARIAT STRUCTURE REVERT TO THE PRE-TOKYO ROUND ORGANIZATION, IT WOULD BE DIFFICULT TO BLOCK ACCESSION OF CURRENT DEPUTY MATHUR. WE BELIEVE TWO DEPUTIES, ONE FROM A DC AND ONE FROM AN LDC, GIVE A BETTER BALANCE TO THE LEADERSHIP.

(B) GATT STAFF -- ALTHOUGH WE EXPECT AND SHOULD SUPPORT SOME INCREASES IN PERMANENT STAFF FOR THE POST MTN PERIOD, WE DO NOT BELIEVE THE SECRETARIAT'S PERMANENT STAFFING PATTERN SHOULD BE GREATLY ENLARGED. WHAT IS OF MORE IMPORTANCE IS THAT QUALITY OF SECRETARIAT BE IMPROVED TO MEET THE NEEDS OF THE 1980S. WE SEE A NEED, FOR EXAMPLE, FOR MEN AND WOMEN WITH AN UNDERSTANDING OF NEGOTIATIONS, WITH ABILITY TO MEDIATE AND HELP SEEK

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CONCILIATION IN DISPUTE RESOLUTION, AND, AS NOTED IN
(D), IN SOME CASES WITH LEGAL TRAINING.

(C) CG-18 -- THE CG-18 HAS NOT FULFILLED ITS PROMISE
OR THE EXPECTATIONS OF SOME FOR PLAYING A GUIDING ROLE,
PARTLY BECAUSE OF ITS EXCESSIVE SIZE. WE BELIEVE, HOW-
EVER, THAT WE SHOULD DEVELOP A STRATEGY SO THAT IT CAN
PLAY AN EFFECTIVE ROLE IN THE POST TOKYO PERIOD. PART
OF ITS FAILURE IN THE PAST HAS STEMMED FROM THE LACK OF
LEADERSHIP ON LONG'S PART AND PART HAS STEMMED FROM THE
UNWILLINGNESS OF MAJOR COUNTRIES TO EVEN GET CLOSE TO
DECISION MAKING IN A PERIOD WHEN THE MTN WAS IN PROGRESS.
ONCE THE MTN IS COMPLETED, WE CAN ENVISION SPECIFIC
PROBLEMS AND PROPOSALS BEING BROUGHT TO THE CG-18 FOR A
DECISION. CONCERNING THE PROBLEM OF THE NUMBER OF PEOPLE
ATTENDING CG-18 SESSIONS, UNFORTUNATELY IT IS UNLIKELY
THAT WE CAN REDUCE THE NUMBER OF DELS ATTENDING THE
FORMAL SESSIONS. AT THE SAME TIME, HOWEVER, THE CG-18
OFFERS AMPLE OPPORTUNITY FOR SMALLER SESSIONS SUCH AS
WORKING DINNERS OR MEETINGS OF HEADS OF DEL WHERE DEC-
SIONS CAN BE ACHIEVED. ALSO, IN POST MTN PERIOD, CG-18
MAY OFFER OPPORTUNITY FOR KEY TRADE OFFICIALS TO MEET,
A USEFUL FUNCTION MADE SUPERFLUOUS AT PRESENT BY THEIR
FREQUENT TRAVEL RELATING TO THE MTN. TO MAKE CG-18 MORE
EFFECTIVE, HOWEVER, WE WILL NEED TO OBTAIN THE CONCUR-
RENCE OF OTHER KEY DELS THAT THE CG-18 IS TO BE MORE
THAN A CONSULTATIVE GROUP WITH THE POWER TO MAKE CERTAIN
DECISIONS OR AT LEAST TO MAKE RECOMMENDATIONS TO THE
COUNCIL. A STRONGER SECRETARIAT COULD ALSO PLAY KEY
ROLE IN FOCUSING ACTIVITIES OF CG-18. FINALLY, MEETING
OF CG-18 LOCAL DELS CAN BE CALLED MORE REGULARLY TO
MANAGE ONGOING GATT WORK.

(D) LEGAL STAFF -- ON THE QUESTION OF ESTABLISHING
A LEGAL COUNSEL'S OFFICE IN THE GATT SECRETARIAT, WE
HAVE SOME MISGIVINGS. FIRST, TO DO SO OFFICIALLY MAY BE
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CONSIDERABLY DIFFICULT IN VIEW OF THE EC AND JAPANESE
CONCERN OVER WHAT THEY VIEW AS U.S. EFFORTS TO BRING MORE

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LEGALISM (AND LESS PRAGMATISM) INTO GATT MATTERS. SECONDLY, WE WANT TO BE VERY CAREFUL ABOUT GIVING A GENERAL COUNSEL'S OFFICE AN EXPANDED ROLE IN LEGAL INTERPRETATION. WHILE WE SEE SOME ADVANTAGE TO HAVING GREATER LEGAL EXPERTISE IN THE SECRETARIAT AS ANOTHER RESOURCE FOR CPS TO DRAW UPON, WE WANT TO BE CAREFUL THAT THE UNIT IS NOT GIVEN SUCH STATURE THAT ITS LEGAL INTERPRETATIONS TAKE ON A MORE BINDING NATURE THAN THE INFORMAL INTERPRETATIONS NOW GIVEN BY MEMBERS OF THE SECRETARIAT SUCH AS LINDEN. AT THE SAME TIME WE REALIZE THAT A PROLIFERATION OF CODES AND UNDERSTANDING EMANATING FROM THE MTN MAY NECESSITATE INCREASED LEGAL EXPERTISE WITHIN THE GATT SECRETARIAT. THEREFORE, WE CAN SEE AN ADVANTAGE TO DESIGNATING CERTAIN POSTS WITHIN THE SECRETARIAT AS TO BE OCCUPIED BY OFFICIALS WITH LEGAL TRAINING. IN THE BEGINNING, HOWEVER, WE THINK THAT THIS MAY BETTER BE ACCOMPLISHED EITHER BY HAVING THE NEW DG BRING LAWYERS INTO ADVISORY POSTS IN THE SECRETARIAT (SUCH AS IN LINDEN'S OFFICE) OR BY HIRING LAWYERS WITHIN A UNIT

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DESIGNED TO SUPPORT THE VARIOUS CODES COMING OUT OF THE MTN RATHER THAN BY ESTABLISHING A GENERAL COUNSEL'S OFFICE.

(E) SPECIAL ASSISTANCE UNIT FOR DEVELOPING COUNTRIES-
IN REF B WE HAVE DISCUSSED IN DETAIL OUR VIEWS WITH
RESPECT TO THE GATT AND THE DEVELOPING COUNTRIES AFTER
THE TOKYO ROUND. WE RECOMMENDED THAT THE SPECIAL ASSIS-
TANCE UNIT FOR DEVELOPING COUNTRIES SET UP TO AID THEM
IN THE MTN BE CONTINUED IN THE POST MTN PERIOD AS A
MEANS BOTH OF GIVING THEM TECHNICAL ASSISTANCE AND OF
DRAWING THEM INTO A GREATER ACCEPTANCE OF GATT OBLIGA-
TIONS. WE ALSO SUPPORT THE RECOMMENDATION IN TPSC 78/58
THAT THE COMMERCIAL POLICY COURSES BE EXPANDED AND, AS WE
HAVE NOTED IN REF B, FUNDED ENTIRELY BY THE GATT IF UN
FUNDING PROCEDURES MAKE IT DESIRABLE TO DO SO.

4. THIS MESSAGE DISCUSSED WITH MTN DEL BUT NOT FORMALLY
CLEARED. VANDEN HEUVEL

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